

**House File 2110 - Introduced**

HOUSE FILE 2110

BY WOLFE

**A BILL FOR**

1 An Act relating to suspension of a child support obligation or  
2 order and including effective date provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 252B.20A Suspension of support —  
2 request by one parent.

3 1. If the unit is providing child support enforcement  
4 services pursuant to this chapter, the parent who is ordered  
5 to pay support for a dependent child for whom support has been  
6 ordered pursuant to chapter 252A, 252C, or 252F, may request  
7 the assistance of the unit in suspending the obligation for  
8 support if all of the following conditions exist:

9 a. The child is currently residing with the parent who  
10 is ordered to pay support, and has been residing with that  
11 parent for more than thirty consecutive days. If the basis for  
12 suspension under this paragraph applies to at least one but not  
13 all of the children for whom support is ordered, the condition  
14 of this paragraph is met only if the support order includes a  
15 step change.

16 b. There is no order in effect regarding legal custody,  
17 physical care, visitation, or other parenting time for the  
18 child.

19 c. It is reasonably expected that the basis for suspension  
20 under this section will continue for not less than six months  
21 from the date a request for assistance to suspend support is  
22 received by the unit.

23 d. The child for whom support is ordered is not receiving  
24 public assistance pursuant to chapter 239B or 249A, or a  
25 comparable law of a foreign jurisdiction, unless the person  
26 against whom support is ordered is considered to be a member  
27 of the same household as the child for the purposes of public  
28 assistance eligibility.

29 e. The requesting parent has signed a notarized affidavit,  
30 provided by the unit, attesting to the existence of the  
31 conditions under paragraphs "a" through "d", has requested  
32 suspension of the support order or obligation, and has  
33 submitted the affidavit to the unit.

34 f. No prior request for suspension has been served under  
35 this section, and no prior request for suspension has been

1 filed with the unit pursuant to section 252B.20, during the  
2 two-year period preceding the request.

3 *g.* Any other criteria established by rule of the department.

4 2. Upon receipt of the application for suspension and  
5 properly executed and notarized affidavit, the unit shall  
6 review the application and affidavit to determine that the  
7 necessary criteria have been met. The unit shall then do one  
8 of the following:

9 *a.* Deny the request and notify the requesting parent in  
10 writing that the application is being denied, providing reasons  
11 for the denial and notifying the requesting parent of the right  
12 to proceed through private counsel. Denial of the application  
13 is not subject to contested case proceedings or further review  
14 pursuant to chapter 17A.

15 *b.* Serve a copy of the application, the affidavit, and  
16 notice on the nonrequesting parent by any means provided in  
17 section 252B.26. The notice to the nonrequesting parent shall  
18 include all of the following:

19 (1) Information sufficient to identify the parties and the  
20 support order affected.

21 (2) An explanation of the procedure for suspension and  
22 reinstatement of support under this section.

23 (3) An explanation of the rights and responsibilities of the  
24 nonrequesting parent, including the applicable procedural time  
25 frames.

26 (4) A statement that within twenty days of service, the  
27 nonrequesting parent must submit a response, in writing, to the  
28 unit agreeing to the assertions or objecting to at least one of  
29 the assertions included in the requesting parent's affidavit.  
30 The statement shall inform the nonrequesting parent that if,  
31 within twenty days of service, the nonrequesting parent fails  
32 to submit a response as specified in this subparagraph (4), the  
33 unit will prepare and submit an order as provided in subsection  
34 3, paragraph "b".

35 3. No sooner than thirty days after service on the

1 nonrequesting parent under subsection 2, paragraph "b", the  
2 unit shall do one of the following:

3     a. If the nonrequesting parent submits a written objection  
4 to any assertion included in the requesting parent's affidavit,  
5 deny the request and notify both parents in writing that the  
6 application is denied, providing reasons for the denial, and  
7 notifying the parents of the right to proceed through private  
8 counsel. Denial of the application is not subject to contested  
9 case proceedings or further review pursuant to chapter 17A.

10     b. If the nonrequesting parent did not submit a written  
11 response to the unit or submitted a response agreeing with  
12 all of the assertions included in the requesting parent's  
13 affidavit, approve the request and prepare an order which shall  
14 be submitted, along with the affidavit and any response from  
15 the nonrequesting parent, to a judge of a district court for  
16 approval, suspending the accruing support obligation. If  
17 the basis for suspension applies to at least one but not all  
18 of the children for whom support is ordered and the support  
19 order includes a step change, the unit shall prepare an order  
20 suspending the accruing support obligation for each child to  
21 whom the basis for suspension applies.

22     4. An order approved by the court for suspension of an  
23 accruing support obligation is effective upon the date of  
24 filing of the suspension order.

25     5. An order suspending an accruing support obligation  
26 entered by the court pursuant to this section shall be  
27 considered a temporary order for the period of six months from  
28 the date of filing of the suspension order. However, the  
29 six-month period shall not include any time during which an  
30 application for reinstatement is pending before the court.

31     6. During the six-month period the unit may request that the  
32 court reinstate the accruing support order or obligation if any  
33 of the following conditions exist:

34     a. Upon application to the unit by either parent or other  
35 person who has physical custody of the child.

1     *b.* Upon the receipt of public assistance benefits pursuant  
2 to chapter 239B or 249A, or a comparable law of a foreign  
3 jurisdiction, by the person entitled to receive support and the  
4 child on whose behalf support is paid, provided that the person  
5 owing the support is not considered to be a member of the same  
6 household as the child for the purposes of public assistance  
7 eligibility.

8     7. If a condition under subsection 6 exists, the unit may  
9 request that the court reinstate an accruing support obligation  
10 as follows:

11     *a.* If the basis for the suspension no longer applies to any  
12 of the children for whom an accruing support obligation was  
13 suspended, the unit shall request that the court reinstate the  
14 accruing support obligations for all of the children.

15     *b.* If the basis for the suspension continues to apply to  
16 at least one but not all of the children for whom an accruing  
17 support obligation was suspended and if the support order  
18 includes a step change, the unit shall request that the court  
19 reinstate the accruing support obligation for each child for  
20 whom the basis for the suspension no longer applies.

21     8. Upon filing of an application for reinstatement, service  
22 of the application shall be made either in person or by first  
23 class mail upon both parents. Within ten days following the  
24 date of service, a parent may file a written objection with  
25 the clerk of the district court to the entry of an order for  
26 reinstatement.

27     *a.* If no objection is filed, the court may enter an order  
28 reinstating the accruing support obligation without additional  
29 notice.

30     *b.* If an objection is filed, the clerk of court shall set  
31 the matter for hearing and send notice of the hearing to both  
32 parents and the unit.

33     9. The reinstatement is effective as follows:

34     *a.* For reinstatements initiated under subsection 6,  
35 paragraph "a", the date the notices were served on both parents

1 pursuant to subsection 8.

2     **b.** For reinstatements initiated under subsection 6,  
3 paragraph "b", the date the child began receiving public  
4 assistance benefits during the suspension of the obligation.

5     **c.** Support which became due during the period of suspension  
6 but prior to the reinstatement is waived and not due and owing  
7 unless the suspension was made under false pretenses.

8     10. If the order suspending a support obligation has been  
9 on file with the court for a period exceeding six months as  
10 computed pursuant to subsection 5, the order becomes final by  
11 operation of law and terminates the support obligation, and  
12 thereafter, a party seeking to establish a support obligation  
13 against either party shall bring a new action for support as  
14 provided by law.

15     11. This section shall not limit the rights of a parent  
16 or the unit to proceed by other means to suspend, terminate,  
17 modify, reinstate, or establish support.

18     12. This section does not provide for the suspension or  
19 retroactive modification of support obligations which accrued  
20 prior to the entry of an order suspending enforcement and  
21 collection of support pursuant to this section.

22     13. Nothing in this section shall prohibit or limit the  
23 unit or a party entitled to receive support from enforcing and  
24 collecting any unpaid or unsatisfied support that accrued prior  
25 to the suspension of the accruing obligation.

26     14. For the purposes of chapter 252H regarding the criteria  
27 for a review under subchapter II of that chapter or for a  
28 cost-of-living alteration under subchapter IV of that chapter,  
29 if a support obligation is terminated or reinstated under  
30 this section, such termination or reinstatement shall not be  
31 considered a modification of the support order.

32     15. As used in this section, unless the context otherwise  
33 requires, "step change" means a change designated in a support  
34 order specifying the amount of the child support obligation  
35 as the number of children entitled to support under the order

1 changes.

2 Sec. 2. Section 252B.20, subsection 1, paragraph d, Code  
3 Supplement 2011, is amended to read as follows:

4 *d.* No prior request for suspension has been filed with the  
5 unit under this section and no prior request for suspension  
6 has been served by the unit under section 252B.20A during the  
7 two-year period preceding the request, ~~unless the request was~~  
8 ~~filed during the two-year period preceding July 1, 2005, the~~  
9 ~~unit denied the request because the suspension did not apply~~  
10 ~~to all children for whom support is ordered, and the parents~~  
11 ~~jointly file a request on or after July 1, 2005.~~

12 Sec. 3. ADOPTION OF RULES. Until such time as the  
13 department of human services adopts rules pursuant to chapter  
14 17A regarding section 252B.20A, as enacted in this Act, the  
15 child support recovery unit may, to the extent appropriate,  
16 apply and utilize procedures, rules, and forms substantially  
17 similar to those applicable and utilized pursuant to section  
18 252B.20.

19 Sec. 4. EFFECTIVE DATE. This Act takes effect January 1,  
20 2013.

21 EXPLANATION

22 This bill provides a process for suspension of a child  
23 support obligation or order if the requesting parent meets  
24 the following criteria: the child has been residing with  
25 the parent ordered to pay support for more than 30 days and  
26 is still residing with that parent; there is no order in  
27 effect for legal custody, physical care, visitation, or other  
28 parenting time for the child; it is reasonably expected that  
29 the basis for the suspension will continue for not less than  
30 six months; the child is not receiving public assistance  
31 unless the requesting parent is considered a member of the  
32 same household as the child for public assistance eligibility;  
33 the requesting parent attests to meeting the criteria in a  
34 signed notarized affidavit submitted to the child support  
35 recovery unit (unit); a request has not been made during the

1 two-year period preceding the request; and any other criteria  
2 established by the unit. The bill provides the procedure  
3 to be followed by the unit upon submission of the request  
4 for suspension; provides that a suspension order approved  
5 by the court is effective upon the date of filing of the  
6 suspension order; provides that the approved suspension order  
7 is considered a temporary order for the initial six-month  
8 period; provides for reinstatement of the support order if  
9 certain conditions are met and the procedure for reinstatement;  
10 and provides that a suspension on file with the court for a  
11 period exceeding six months becomes final by operation of law,  
12 terminates the support obligation, and if a party seeks to  
13 establish a subsequent support obligation, the party must bring  
14 a new action. The bill provides that the department of human  
15 services may use the procedures, rules, and forms substantially  
16 similar to those applicable and utilized for the suspension  
17 procedure under Code section 252B.20. The bill takes effect  
18 January 1, 2013.